

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 4, 2004 PLANNING COMMISSION MEETING

P.A.S.: Street and Alley Vacation #03021

PROPOSAL: To vacate a portion of South 87th Street and re-dedicate it as private roadway.

LOCATION: Between Andermatt Drive and Highway 2 at Prairie Lakes Shopping Center (formerly Appian Way)

LAND AREA: Approximately .5 acres.

CONCLUSION: This request complies with the Comprehensive Plan provided an access easement is retained. The deed would require an access easement just like other easements for utilities.

<u>RECOMMENDATION:</u>	Conforms to the Comprehensive Plan
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached.

SURROUNDING LAND USE AND ZONING:

North:	Commercial	B-5
South:	Vacant (Appian Way Phase II under review)	AGR
East:	Commercial	B-5
West:	Commercial	B-5

ASSOCIATED HISTORY: November 7, 2003 - Administrative Amendment #03072 to Use Permit #140A was approved revising the Land Use Table and showing an additional 180' of South 87th Street included within the Use Permit boundary.

February 4, 2002 - The final plat of Appian Way Addition was approved by the Planning Commission.

November 5, 2001 - The annexation agreement for the land on both sides of Highway in this area was approved by the City Council.

November 5, 2001 - The preliminary plat and use permit for Appian Way (now Prairie Lakes) was approved by the City Council, north of Highway 2.

March 26, 2001 - The Southeast Lincoln/Highway 2 Subarea Plan was approved by the City Council.

COMPREHENSIVE PLAN SPECIFICATIONS: Page F23 - The Comprehensive Plan designates commercial land uses for this site.

ANALYSIS:

1. South 87th Street was dedicated with the final plat of Appian Way Addition in 2002, and serves as the main access point for the shopping center.
2. The petitioner is proposing to erect an entrance sign spanning South 87th Street to identify the shopping center. However, Lincoln Municipal Code (LMC) does not allow signs to encroach into public right-of-way and the sign is prohibited.
3. The petitioner is proposing to vacate a portion of South 87th Street, and dedicate a private roadway in its place. Unlike public streets, private roadways are not in public rights-of-way, but instead are in public access easements. Because no right-of-way is involved, the proposed sign would be allowed to span the roadway provided it meets all applicable design standards, sight distance requirements, and the use permit is amended to allow it.
4. All other internal roads to the shopping center are also private roadways.
5. There is a storm sewer facility in the right-of-way which is considered a public improvement because it is within the right-of-way. If the vacation is approved, Public Works recommends that this facility become a private improvement that the petitioner would own and maintain.
6. All existing improvements in South 87th Street will remain and there will be no change to the street if this request is approved. There are telecommunications and power lines currently in the right-of-way, and easements must be retained.

BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA THE FOLLOWING MUST BE COMPLETED:

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- 1.2 The petitioner provides verification demonstrating authority to execute instruments on behalf of Eiger Corporation, and the notarial acknowledgment revised to reflect that the petitioner is signing on behalf of the corporation and not as an individual.
- 1.3 The petitioner will enter into an agreement assuming responsibility for storm sewer improvements within the area to be vacated.

Prepared by:

Brian Will, AICP
Planner
January 21, 2004

**APPLICANT/
CONTACT:**

Eiger Corporation
16934 Pella Road
Adams, NE 68301
(402) 432-8975



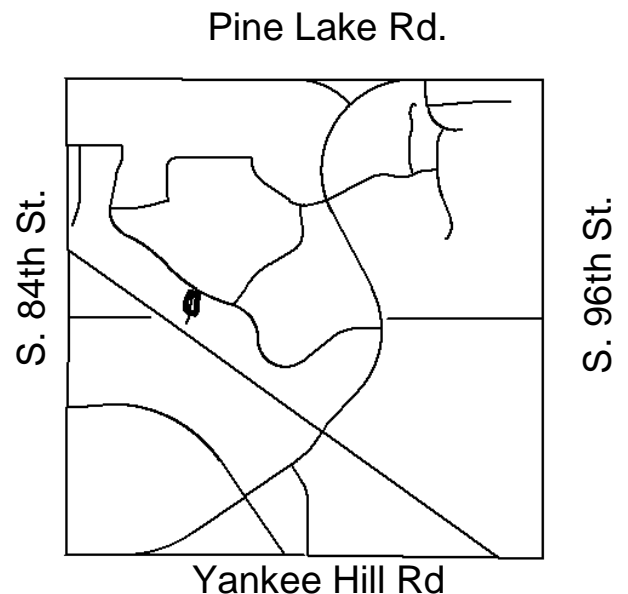
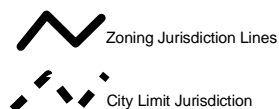
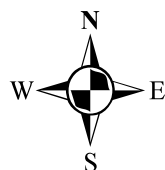
2002 aerial

Street & Alley Vacation #03021 87th & Andermatt

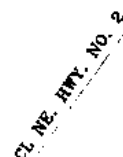
Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 23 T9N R7E



Lincoln City - Lancaster County Planning Dept.



QUOTIENTS		
LOT NUMBER	AREA IN SF	AREA IN AC
QUILLOT "K" (open green space/road)	507,923.81 SF	7.07 AC
QUILLOT "L" (open green space/road)	494,062.78 SF	11.34 AC

[illegible][illegible][illegible][illegible]



SCALE: 1" = 2'

TRACT 1 LEGAL DESCRIPTION

A PORTION OF THE EXISTING ROAD RIGHT OF WAY FOR SOUTH 87TH STREET TO BE VACATED LYING BETWEEN THE NORTHERLY EXISTING RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2 AND THE SOUTHERLY LINE OF ANDERMATT DRIVE (A PRIVATE ROADWAY) DEDICATED AS A 96' PUBLIC ACCESS, WATER MAIN, SANITARY SEWER AND UTILITY EASEMENT ON THE FINAL PLAT FOR APPIAN WAY ADDITION, LOCATED IN THE WEST HALF OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO A POINT LOCATED AT THE INTERSECTION OF THE NORTHERLY EXISTING RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2 AND THE WESTERLY EXISTING RIGHT OF WAY LINE OF SOUTH 87TH STREET, THENCE N 70°21'51" E (ASSUMED BEARING), ALONG THE WESTERLY EXISTING RIGHT OF WAY LINE OF SOUTH 87TH STREET, A DISTANCE OF 30.30 FEET TO THE POINT OF CURVATURE OF A 235.50 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE NORTHERLY, ALONG SAID CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 09°43'54", AN ARC DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING, THE CHORD OF SAID CURVE BEARS N 08°56'32" E, A DISTANCE OF 39.95 FEET; THENCE CONTINUING NORTHERLY, ALONG SAID 235.50 FOOT RADIUS CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 05°08'01", AN ARC DISTANCE OF 21.10 FEET TO THE POINT OF REVERSE CURVATURE OF A 364.50 FOOT RADIUS CURVE, CONCAVE TO THE EAST, THE CHORD OF SAID INITIAL CURVE BEARS N 01°30'34" E A DISTANCE OF 21.09 FEET; THENCE NORTHERLY, ALONG SAID 364.50 FOOT RADIUS CURVE AND SAID WESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 30°45'45", AN ARC DISTANCE OF 195.70 FEET TO A POINT ON THE SOUTHERLY LINE OF ANDERMATT DRIVE (A PRIVATE ROADWAY) DEDICATED AS A 96' PUBLIC ACCESS, WATER MAIN, SANITARY SEWER AND UTILITY EASEMENT AND THE POINT OF CURVATURE OF A 1550.00 FOOT RADIUS CURVE, CONCAVE TO THE NORTH, THE CHORD OF SAID INITIAL CURVE BEARS N 14°19'28" E A DISTANCE OF 193.36 FEET; THENCE SOUTHEASTERLY, ALONG SAID 1550.00 FOOT RADIUS CURVE AND SAID SOUTHERLY LINE OF ANDERMATT DRIVE, THROUGH A CENTRAL ANGLE OF 02°07'09", AN ARC DISTANCE OF 57.33 FEET TO A POINT ON THE CENTERLINE OF SOUTH 87TH STREET AND THE POINT OF CURVATURE OF A 307.25 FOOT RADIUS CURVE, CONCAVE TO THE EAST, THE CHORD OF SAID INITIAL CURVE BEARS S 57°36'04" E A DISTANCE OF 57.33 FEET; THENCE SOUTHERLY, ALONG SAID 307.25 FOOT RADIUS CURVE AND SAID CENTERLINE OF SOUTH 87TH STREET, THROUGH A CENTRAL ANGLE OF 30°15'36", AN ARC DISTANCE OF 162.27 FEET TO THE POINT OF REVERSE CURVATURE OF A 292.75 FOOT RADIUS CURVE, CONCAVE TO THE WEST, THE CHORD OF SAID INITIAL CURVE BEARS S 14°04'21" W A DISTANCE OF 160.39 FEET; THENCE SOUTHERLY, ALONG SAID 292.75 FOOT RADIUS CURVE AND SAID CENTERLINE OF SOUTH 87TH STREET, THROUGH A CENTRAL ANGLE OF 05°08'01", AN ARC DISTANCE OF 26.23 FEET, THE CHORD OF SAID CURVE BEARS S 01°30'34" W, A DISTANCE OF 26.22 FEET; THENCE N 85°55'26" W A DISTANCE OF 57.25 FEET TO THE POINT OF BEGINNING CONTAINING AN AREA OF 11,591.66 SQUARE FEET (0.27 ACRES) MORE OR LESS.

TRACT 2 LEGAL DESCRIPTION

A PORTION OF THE EXISTING ROAD RIGHT OF WAY FOR SOUTH 87TH STREET TO BE VACATED LYING BETWEEN THE NORTHERLY EXISTING RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2 AND THE SOUTHERLY LINE OF ANDERMATT DRIVE (A PRIVATE ROADWAY) DEDICATED AS A 96' PUBLIC ACCESS, WATER MAIN, SANITARY SEWER AND UTILITY EASEMENT ON THE FINAL PLAT FOR APPIAN WAY ADDITION, LOCATED IN THE WEST HALF OF SECTION 23, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REFERRING TO A POINT LOCATED AT THE INTERSECTION OF THE NORTHERLY EXISTING RIGHT OF WAY LINE OF NEBRASKA HIGHWAY NO. 2 AND THE EASTERLY EXISTING RIGHT OF WAY LINE OF SOUTH 87TH STREET, THENCE N 14°44'12" W (ASSUMED BEARING), ALONG THE EASTERLY EXISTING RIGHT OF WAY LINE OF SOUTH 87TH STREET, A DISTANCE OF 39.56 FEET TO THE POINT OF CURVATURE OF A 350.00 FOOT RADIUS CURVE, CONCAVE TO THE WEST; THENCE NORTHERLY, ALONG SAID CURVE AND SAID EASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 16°49'57", AN ARC DISTANCE OF 102.82 FEET TO THE POINT OF BEGINNING, THE CHORD OF SAID CURVE BEARS N 12°29'33" E, A DISTANCE OF 102.46 FEET; THENCE CONTINUING NORTHERLY, ALONG SAID 350.00 FOOT RADIUS CURVE AND SAID EASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 05°08'01", AN ARC DISTANCE OF 31.36 FEET TO THE POINT OF REVERSE CURVATURE OF A 250.00 FOOT RADIUS CURVE, CONCAVE TO THE EAST, THE CHORD OF SAID INITIAL CURVE BEARS N 01°30'34" E A DISTANCE OF 31.35 FEET; THENCE NORTHERLY, ALONG SAID 250.00 FOOT RADIUS CURVE AND SAID EASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 30°00'47", AN ARC DISTANCE OF 130.96 FEET TO A POINT ON THE SOUTHERLY LINE OF ANDERMATT DRIVE (A PRIVATE ROADWAY) DEDICATED AS A 96' PUBLIC ACCESS, WATER MAIN, SANITARY SEWER AND UTILITY EASEMENT AND THE POINT OF CURVATURE OF A 1550.00 FOOT RADIUS CURVE, CONCAVE TO THE NORTH, THE CHORD OF SAID INITIAL CURVE BEARS N 13°56'57" E A DISTANCE OF 129.46 FEET; THENCE NORTHWESTERLY, ALONG SAID 1550.00 FOOT RADIUS CURVE AND SAID SOUTHERLY LINE OF ANDERMATT DRIVE, THROUGH A CENTRAL ANGLE OF 02°07'01", AN ARC DISTANCE OF 57.27 FEET TO A POINT ON THE CENTERLINE OF SOUTH 87TH STREET AND THE POINT OF CURVATURE OF A 307.25 FOOT RADIUS CURVE, CONCAVE TO THE EAST, THE CHORD OF SAID INITIAL CURVE BEARS N 57°43'10" W A DISTANCE OF 57.26 FEET; THENCE SOUTHERLY, ALONG SAID 307.25 FOOT RADIUS CURVE AND SAID CENTERLINE OF SOUTH 87TH STREET, THROUGH A CENTRAL ANGLE OF 30°15'36", AN ARC DISTANCE OF 162.27 FEET TO THE POINT OF REVERSE CURVATURE OF A 292.75 FOOT RADIUS CURVE, CONCAVE TO THE WEST, THE CHORD OF SAID INITIAL CURVE BEARS S 14°04'21" W A DISTANCE OF 160.39 FEET; THENCE SOUTHERLY, ALONG SAID 292.75 FOOT RADIUS CURVE AND SAID CENTERLINE OF SOUTH 87TH STREET, THROUGH A CENTRAL ANGLE OF 05°08'01", AN ARC DISTANCE OF 26.23 FEET, THE CHORD OF SAID CURVE BEARS S 01°30'34" W, A DISTANCE OF 26.22 FEET; THENCE S 85°55'26" E A DISTANCE OF 57.25 FEET TO THE POINT OF BEGINNING CONTAINING AN AREA OF 10,032.02 SQUARE FEET (0.23 ACRES) MORE OR LESS.

"G"

INFORMATION SHEET

An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached **Petition to Vacate Public Way** must also be filled out completely according to the instructions contained in the Instruction Sheet.

1. Name of Petitioner (Current Titleholder/s): Eiger Corporation
If more than one individual, indicate if you are:
_____ joint tenants with right of survivorship, OR _____ tenants in common
2. Petitioner's Address: 16934 Pella Road
Adams, NE 68301
3. Petitioner's Telephone Number: (402) 432-8975
4. Name of street, alley, or other public way sought to be vacated: South 87th Street
5. Legal description of Petitioner's property which abuts the public way sought to be vacated: _____
Outlot "K" Appian Way Addition
Outlot "L" Appian Way Addition
6. Why are you seeking to have this street, alley, or other public way vacated?
To allow for Construction of an arched Entrance Sign over South 87th Street.
7. What use or uses do you propose to make of the public way should it be vacated?
Public Access Easement, Landscaping, Arched Entrance Sign
8. Do you intend to purchase that portion of the vacated public way which abuts your property as described in the **Petition to Vacate Public Way** and/or other portions of the vacated public way?
YES X NO
9. Name and address of person to whom tax statement should be sent:
Eiger Corporation
16934 Pella Road
Adams, NE 68301

The property will be appraised and the purchase price of the portion abutting your property must be paid by you to the City Clerk unless you have indicated that the portion abutting your property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not be introduced before the City Council until the full price of the entire public way proposed to be vacated has been paid.

***** IMPORTANT: BE SURE THAT THE PETITION TO VACATE PUBLIC WAY HAS BEEN PROPERLY EXECUTED BY ALL TITLEHOLDERS TO YOUR PROPERTY AND ATTACH IT TO THIS INFORMATION SHEET.**

RECEIVED
NOV 26 2003

**PETITION TO VACATE PUBLIC WAY
with
RELEASE AND WAIVER OF RIGHTS AND TITLE,
AND QUITCLAIM DEED TO CITY OF LINCOLN**

TO THE HONORABLE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

The undersigned property owner(s) hereby petition you to vacate the following street, alley, or other public way, commonly known as: (i.e.: Elm Street from 1st to 2nd St. or East-west alley, from the north line of 1st St. to the south line of 2nd St.)

South 87th Street From the Southerly edge of the existing 96' Public Access Easement for
Andermatt Drive to Approx. 180' South -- as shown on attached Exhibit.

in the CITY OF LINCOLN, NEBRASKA, with the City reserving in said street, alley, or other public way such title, rights, easements, and privileges as it may deem necessary. In consideration of the vacation of the above-described street, alley, or other public way, we, and each of us, for ourselves, our heirs, personal representatives, successors, and assigns, hereby waive and release any and all claims, causes of action, rights of access, and demands of every nature, known or unknown, which may accrue to us, or which we now have, or which we may hereafter have as a result of such vacation; and hereby quitclaim unto the City of Lincoln, Nebraska, and to its successors and assigns forever, all right, title, interest, estate, and demand, both at law and in equity, in and to all of said street, alley, or other public way.

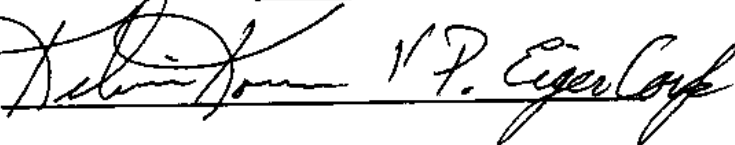
TO HAVE AND TO HOLD the above-described street, alley, or other public way together with all tenements, hereditaments, and appurtenances thereto belonging unto the City of Lincoln, Nebraska, and to its successors and assigns forever.

The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: *(Legal description from deed or abstract NOT street address, i.e. Lot 10, Block 500 Boardwalk Addition NOT 4500 Park Place Blvd.)*

Outlot "K" Appian Way Addition

Outlot "L" Appian Way Addition

DATED this 19th day of Nov, 20 03

 N.P. Eger Corp.

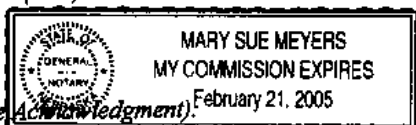
**(ALL TITLEHOLDERS OF THE ABOVE DESCRIBED REAL ESTATE MUST SIGN THIS PETITION
BEFORE A NOTARY PUBLIC - NOTARIAL ACKNOWLEDGMENTS ON REVERSE)**

(Individual(s) Acknowledgment):

STATE OF Nebraska)
) ss.
Lancaster COUNTY)

The foregoing instrument was acknowledged before me on this 19th day of November, 2003 by
Kelvin Kocur married
(Please indicate name(s) and marital status of person(s) signing)

(Seal)



Mary Sue Meyers
Notary Public

(Corporate Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by
_____, president of _____, on behalf of the corporation.

(Seal)

Notary Public

(Partnership Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by
_____, general partner of _____, on behalf of the partnership.

(Seal)

Notary Public

(Limited Liability Company Acknowledgment):

STATE OF _____)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 20____, by
_____, managing member of _____, on behalf of said limited
liability company.

(Seal)

Notary Public

